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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, NORTHERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	Case No. 06-cv-00088-PGC
Plaintiff,	)	
v.	)	
	)	UNITED STATES' RESPONSE TO
JOHN J. GAURUDER, an individual;	)	AVERMENT OF NOTICE
JANA GAURUDER, an individual;	)	
JANA GAURUDER, as Trustee of	)	
HIGH TETONS, A TRUST;	)	
UTAH STATE TAX COMMISSION; and	)	
US BANK, HOME MORTGAGE,	)	
	)	
Defendants.	)	
_____	)	

The United States of America ("United States"), through its undersigned counsel, hereby responds to the Averment of Notice ("Notice") filed by John and Jana Gauruder (collectively the

“Gauruders”).<sup>1</sup>

On September 9, 2007, the Gauruders filed the Notice essentially raising the two following assertions: (1) this Court is without subject matter jurisdiction because counsel for the United States does not have the proper delegation of authority to bring this action, and (2) to have a case there must be two parties, and because the Gauruders have not appeared in this action, there is only one party, thus, there is no case before this Court. Notice at pg. 2, and 5-7.

These two assertions are identical to those raised in two other pleadings recently filed by the Gauruders on September 9, 2007 and September 15, 2007. Docket Entries No. 39 and 41. On September 21, 2007, the United States responded to these two pleadings. Docket Entry No. 42. In response to the Notice, the United States incorporates, by reference herein, the arguments raised in its response dated September 21, 2007, located at docket entry number 42.

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<sup>1</sup> The Notice, though not captioned as a motion, raises issues regarding this Court’s jurisdiction to hear this action. Thus, the United States is filing this response to the extent the Gauruders’ are moving this Court for relief.

WHEREFORE, to the extent the Gauruders', through the Notice, are moving this Court for relief, the United States respectfully requests that this Court deny any such relief.

DATED this 16th day of October, 2007

Respectfully submitted,

BRETT L. TOLMAN  
United States Attorney

JARED BENNETT  
Assistant United States Attorney

s/ Chad D. Nardiello  
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**CERTIFICATE OF SERVICE**

I hereby certify that I have made service of the foregoing UNITED STATES' RESPONSE TO AVERMENT OF NOTICE upon the parties hereto by depositing in the United States mail on the 16th day of October, 2007, a true copy thereof, enclosed in an envelope with postage thereon, addressed to:

JOHN J. GAURUDER  
JANA GAURUDER  
JANA GAURUDER Trustee, HIGH TETONS, A TRUST  
926 North 2300 West  
Tremonton, Utah 84337

UTAH STATE TAX COMMISSION  
160 East 300 South, 5<sup>th</sup> Floor  
Post Office Box 140874  
Salt Lake City, Utah 84114

US BANK, HOME MORTGAGE, NA  
475 East 200 South  
Salt Lake City, Utah 84111  
Attn: Glade Williams

s/ Chad D. Nardiello  
CHAD D. NARDIELLO  
Trial Attorney, Tax Division  
U.S. Department of Justice